

June 15, 2020

VIA ECF

The Honorable Sarah L. Cave, U.S.M.J.
United States District Court, Southern District of New York
500 Pearl Street, Room 702
New York, NY 10007

Re: Local 3621, et al v. City of New York, et al; Index No. 18-cv-04476

Your Honor:

We submit this letter motion to respectfully ask that the Court compel Defendants to produce Emily Rahimi for deposition on Wednesday June 17, 2020, or in the alternative on Thursday June 18, 2020.

Plaintiffs have noticed depositions for over two dozen witnesses of which, to date, Defendants have offered to produce only 3 and have denied providing even the names of most. Further, of the 3 individuals Defendants have purported to make available, all scheduled depositions have either ultimately been withdrawn or offered in a manner in which they cannot be properly conducted.

In specific, the first of these ‘produced’ witnesses, James Booth, was offered for a June 8, 2020 examination. However, after learning that Chief Booth was potentially one of the individuals relevant to our six areas of inquiry and that he would be a custodian in the ESI discovery, rather than rescheduling Chief Booth until after the ESI was produced, or agreeing to produce Chief Booth on June 8, 2020 with the caveat that he would be reproduced if there was additional relevant information Plaintiffs determined he needed to be examined on as a result of that ESI production, Defendants simply did not produce him and have failed to offer a date to reschedule him.

Next, on June 9, 2020 Defendants’ counsel confirmed that Fred Villani would be available for deposition on June 16, 2020 and Emily Rahimi would be available on both June 17, 2020 and June 18, 2020. Attached as **Exhibit A**, please see this confirmation. However, 3 days later counsel withdrew these dates, claiming that because she was out on Monday (none of the dates scheduled for deposition were on Monday, and arguably counsel knew she would be out Monday when she offered these dates) the depositions were cancelled and would be “rescheduled.” Counsel then ignored numerous emails from the undersigned attempting to mitigate, even after our office advised counsel we would seek the Court’s help if Defendants did not respond. Attached here as **Exhibit B** please see some of these communications. Our office has yet to hear from counsel.

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While it is too late to have Chief Villani produced tomorrow, we believe Defendants' counsel should still produce Ms. Rahimi on Wednesday or Thursday of this week. Counsel has ignored requests from our office starting at 2:37pm on Friday immediately after learning of her intent to cancel the depositions and continuing through today as recently as 9:41am.

Counsel has confirmed Ms. Rahimi is available on both Wednesday and Thursday of this week and has provided no basis not to proceed. There is no reason to delay this deposition as Plaintiffs struggle to get information necessary to conduct this and other depositions necessary to proceed in this matter for which Defendants have attempted to delay and frustrate. Parties need to know by tomorrow Tuesday June 16, 2020 by 10:00am at the latest if the deposition will proceed so that we can arrange technical support and a Court reporter.

For these reasons, we respectfully ask that the Court order Defendants produce, as offered, Ms. Rahimi for deposition on Wednesday June 17, 2020 or in the alternative Thursday June 18, 2020.

Respectfully Submitted,

/s/
Yetta G. Kurland

In light of Defendants' letter at ECF No. 113 indicating that they are still able to produce Ms. Rahimi for a deposition on June 17 or June 18, 2020, Plaintiffs' motion to compel this deposition is DENIED as moot.

The parties are directed to meet and confer to finalize the protocols and remote platform for this deposition and the remaining depositions. A sample stipulation for remote depositions is available on the Court's individual page at: <https://www.nysd.uscourts.gov/hon-sarah-l-cave>.

The Clerk of Court is respectfully directed to close the Letter-Motion at ECF No. 112.

SO ORDERED

6/16/2020


SARAH L. CAVE
United States Magistrate Judge